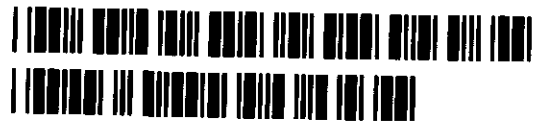


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3 AT SEATTLE  
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09-CV-01455-ORD

5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

7 TERRY SMITH,

8 Petitioner,

9 v.

10 RON FRAKER,

11 Respondent.


Case No. C09-1455-JLR

ORDER OF DISMISSAL

12 The Court, having reviewed petitioner's 28 U.S.C. § 2254 petition and amended petition  
13 for writ of habeas corpus (Dkt. 6, 8), the Report and Recommendation of United States Magistrate  
14 Judge Brian A. Tsuchida, the governing law, and the balance of the record, does hereby find and  
15 ORDER:

- 16 (1) The Court adopts the Report and Recommendation;  
17 (2) Petitioner's petition and amended petition for writ of habeas corpus under 28  
18 U.S.C. § 2254 (Dkt. 8) are **DENIED** and the case is **DISMISSED** with prejudice.  
19 (3) Issuance of a certificate of appealability is **DENIED**.  
20 (4) The Clerk of Court is directed to send copies of this Order to petitioner and to  
21 Magistrate Judge Brian A. Tsuchida.

22 DATED this 8<sup>th</sup> day of March 2010.

23   
JAMES L. ROBERT  
United States District Judge